

REMARKS/ARGUMENTS

Claims 1-20 are pending in this application, with claim 1 being the only independent claim. Claims 1 and 2 are amended. Claim 20 is added. Reconsideration of the above-identified application, as herein amended and in view of the following remarks, is respectfully requested.

Claims 1-8, 11-16, and 18 stand rejected under 35 U.S.C. §102(b) as anticipated by DE 195 34 411 (DE '411).

Claims 1-4, 6, 7, 9-15, 17, and 19 stand rejected under 35 U.S.C. §103 as unpatentable over U.S. Patent No. 4,694,857 (Harris).

Independent claim 1 is amended and now recites “wherein the arms of the damping device include at least one first vertical arm extending substantially in a vertical direction and first and second horizontal arms extending substantially horizontally and angled away from the first vertical arm, the first and second horizontal arms being spaced apart in the vertical direction”. Support for this limitation is found at page 5, lines 19-22 and Fig. 1 of the application as originally filed which discloses horizontal arms 14 and 16.

DE '411 fails to disclose first and second horizontal arms that are spaced apart in the vertical direction. DE '411 discloses a fuel pump mounting for accommodating a fuel feed pump unit in fuel tank. According to DE '411 a tank flange 13 can be mounted in an opening in a fuel tank. Struts 24', 24'', and 24''' extend from the tank flange 13 at one end to a ring portion 26 at the other end. A receptacle 14 holding the fuel pump/motor unit 12 is arranged within the ring portion 26. Receptacle 14 is connected to the ring portion 26 by s-shaped elements 27 which allow some movement of the receptacle 14 relative to the ring.

The Examiner states that s-shaped elements 27 are the claimed horizontal bars. However, each of the s-shaped elements 27 is arranged at the same vertical position and can not

be considered to be spaced apart in the vertical direction. In the rejection of claim 2, the examiner refers to upper and lower bars 27 in Fig. 3. However, Fig. 3 is a plan view from the top looking down (see the line III - III- in Fig. 1). Accordingly, the s-shaped elements 27 can not be considered to be vertically spaced apart. Therefore, DE '411 fails to disclose "wherein the arms of the damping device include at least one first vertical arm extending substantially in a vertical direction and first and second horizontal arms extending substantially horizontally and angled away from the first vertical arm, the first and second horizontal arms being spaced apart in the vertical direction", as expressly recited in independent claim 1. Accordingly, the rejection of independent claim 1 as anticipated by DE '411 should be withdrawn.

Harris also fails to disclose the claimed horizontal arms. Harris discloses a fuel sender unit for delivering fuel from a fuel tank including a top mounting plate 12. Upper and lower pump support frames 35, 36 suspend a fuel pump 32 (see col. 4, lines 55-57 of Harris). The upper support frame 34 includes a central shaft 60 from which fins 62 extend outwardly (col. 4, lines 59-63). The lower support frame 36 includes legs 88 which are interconnected with the fins 623 and a pump carrier dish 84 on which the fuel pump 32 is supported (col. 5, lines 34 -39). A noise insulating gasket is arranged between the dish 84 and the fuel pump 32 (col. 5, lines 39-42).

The Examiner states that the legs 88 are considered to disclose the claimed vertical and horizontal arms. However, even if the lower portions of the legs 88 are considered to be horizontal arms -- which applicant does not believe to be true -- these arms can not be considered to be spaced apart in the vertical direction.

Accordingly, Harris also fails to disclose "wherein the arms of the damping device include at least one first vertical arm extending substantially in a vertical direction and first and second horizontal arms extending substantially horizontally and angled away from the first

vertical arm, the first and second horizontal arms being spaced apart in the vertical direction” as expressly recited in independent claim 1. Therefore, the rejection of claim 1 as anticipated by Harris should now be withdrawn.

Dependent claims 2-20, being dependent on independent claim 1, are deemed allowable for the same reasons expressed above with respect to independent claim 1, as well as for the additional recitation contained therein.

Dependent claim 2 further recites “wherein a second vertical arm connects the first horizontal arm and the second horizontal arm, and wherein only the second horizontal arm of the arms is directly connected to the second retaining means”. Support for this is found at page 5, lines 22-24 of the application as originally filed. Neither DE ‘411 nor Harris disclose that only one of two horizontal arms is directly connected to a second retaining means. DE ‘411 discloses that each of the s-shaped elements 27 is connected to a receptacle 14 for holding the fuel pump. Similarly, Harris discloses that each of the elements 88 is connected to the dish 84 that holds the fuel pump. Accordingly, dependent claim 2 is allowable for at least these additional reasons.

Dependent claim 20 depends from claim 2 and further recites “wherein only the first horizontal arm of the first and second horizontal arms is connected directly to the at least one first vertical arm, and wherein only the at least one vertical arm of the arms is directly connected to the first retaining means.” Support for this limitation is found at page 5, lines 18-21 of the application as originally filed. Neither DE ‘411 nor Harris discloses these limitations. Accordingly, dependent claim 20 is allowable for at least these additional reasons.

The application is now deemed to be in condition for allowance and notice to that effect is solicited.

It is believed that no fees or charges are required at this time in connection with the present application. However, if any fees or charges are required at this time, they may be charged to our Patent and Trademark Office Deposit Account No. 03-2412.

Respectfully submitted,
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